

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

MICHAEL WALLS #261278,

Plaintiff,

v.

4:05-cv-06

RICHARD STEPHEN,

Defendant.

MEMORANDUM AND ORDER

The court is in receipt of a *pro se* prisoner's complaint and an application to proceed *in forma pauperis*. It appears from the application that the plaintiff lacks sufficient financial resources to pay the \$150.00 filing fee.¹ Accordingly, pursuant to 28 U.S.C. § 1915(b)(4), the Clerk is **DIRECTED** to file this action without the prepayment of costs or fees or security therefor as of the date the complaint was received. However, for the reasons stated below, process shall not issue and this action is **DISMISSED**.

¹Plaintiff submitted his complaint before the filing fee increased from \$150.00 to \$250.00.

Plaintiff has filed a "Criminal Complaint For Manufacture [*sic*] Methamphetamine" against defendant Richard Stephen. According to plaintiff, defendant Stephen is manufacturing methamphetamine at 393 Dean Shop Road, Estill Springs, Tennessee, 37330. Plaintiff asks the district court to issue a federal search warrant requiring federal investigators to search the defendant's property and seize methamphetamine and its components; plaintiff also asks the district court to place him on the payroll as a federal informant.

The decision whether to bring criminal charges in this court is one for the United States Attorney for the Eastern District of Tennessee to make. Plaintiff cannot on his own bring such charges. Therefore, this action is **DISMISSED** *sua sponte*, as frivolous and for failure to state a claim upon which relief can be granted. The court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. *See* Rule 24 of the **FEDERAL RULES OF APPELLATE PROCEDURE**.

Because the plaintiff is in the custody of the Tennessee Department of Correction, he is herewith **ASSESSED** the civil filing fee of \$150.00. Pursuant to 28 U.S.C. § 1915(b)(1)(A) and (B), the custodian of the plaintiff's inmate trust account at the institution where he now resides is directed to submit to the Clerk, U.S. District Court, P.O. Box 459, Winchester, Tennessee 37398, as an initial partial payment, whichever is greater of:

- (a) twenty percent (20%) of the average monthly deposits to the plaintiff's inmate trust account; *or*
- (b) twenty percent (20%) of the average monthly balance in the plaintiff's inmate trust account for the six-month period preceding the filing of the complaint.

Thereafter, the custodian shall submit twenty percent (20%) of the plaintiff's preceding monthly income (or income credited to the plaintiff's trust account for the preceding month), but only when such monthly income exceeds ten dollars (\$10.00), until the full filing fee of one hundred fifty dollars (\$150.00) as authorized under 28 U.S.C. § 1914(a) has been paid to the Clerk. 28 U.S.C. § 1915(b)(2).

The Clerk is **DIRECTED** to send a copy of this Memorandum and Order to the Warden of the Northwest Correctional Complex, the Commissioner of the Tennessee Department of Correction, and the Attorney General for the State of Tennessee to ensure that the custodian of the plaintiff's inmate trust account complies with that portion of the Prison Litigation Reform Act relating to payment of the filing fee. The Clerk is further **DIRECTED** to forward a copy of this Memorandum and Order to the court's financial deputy.

E N T E R:

s/ James H. Jarvis

United States District Judge